

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2352

SPONSOR: Health, Aging, and Long-Term Care Committee and Senator Wasserman Schultz

SUBJECT: Public Swimming Pools

DATE: March 26, 2003

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harkey</u>	<u>Wilson</u>	<u>HC</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>JU</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill requires all public swimming pools to have child-safety features including a permanent barrier enclosing the pool, self closing gates for pedestrians, and lockable gates other than pedestrian gates. The child-safety features must prevent entry by a child 6 years old or younger. County health departments are required to inspect the barriers and other safety features and must immediately close a pool that is not in compliance. A pool owner or operator who fails to install and maintain the equipment required by this bill could be subject to an administrative fine not to exceed \$1,500.

The safety requirements in the bill apply to all public pools operated or constructed on or after July 1, 2003, except that pools in operation on that date must be brought into compliance by October 1, 2003.

The bill authorizes the use of a portable pool used for scuba diving instruction as a public pool and authorizes the Department of Health to issue a permit to the owner or operator of such a pool if it otherwise meets the health, safety, and welfare requirements of the rules for public pools.

This bill creates s. 514.0305, F.S., and amends s. 514.031, F.S.

II. Present Situation:

Chapter 514, F.S., governs public swimming and bathing facilities. Section 514.011(2), F.S., defines "public pool" to include, but not be limited to, pools operated by or serving camps, churches, cities, counties, day care centers, group home facilities for eight or more clients, health spas, institutions, parks, state agencies, schools, subdivisions, or the cooperative living-type

projects of five or more living units, such as apartments, boardinghouses, hotels, mobile home parks, motels, recreational vehicle parks, and townhouses.

Under s. 514.021, F.S., the Department of Health (DOH) has the authority to adopt and enforce rules to protect the health, safety, or welfare of persons using public swimming pools. Sanitation and safety standards must include, but not be limited to, matters relating to structure; appurtenances; operation; source of water supply; bacteriological, chemical, and physical quality of water in the pool or bathing area; method of water purification, treatment, and disinfection; lifesaving apparatus; measures to ensure safety of bathers; and measures to ensure the personal cleanliness of bathers.

DOH must approve all plans to construct, develop, or modify a public swimming pool. DOH is responsible for permitting and inspecting approximately 31,000 public pools each year. DOH is authorized to establish a fee schedule that DOH or county health departments may charge for plan approval and for an annual operating permit. Safety features are not spelled out in the chapter. Requirements for pool construction, including safety features, are included in rules in ch. 64E-9, F.A.C. Such features would be included in the plans that must be reviewed and approved by DOH. Pool construction is also governed by the Florida Building Code under Part IV of ch. 553, F.S.

Under s. 514.031, F.S., it is unlawful for a person or public body to operate a public swimming pool without a valid permit from DOH. A person or public body must file an application with DOH with a description of the structure; the source and supply of water; the method and manner of water purification, treatment, disinfection, and heating; safety equipment and standards to be used; measures to ensure personal cleanliness of bathers; and other pertinent information deemed necessary by DOH. A portable pool may not be used as a public pool.

According to the U.S. Centers for Disease Control and Prevention, drowning is the second leading cause of injury-related death for children (aged 1 through 14 years), accounting for 940 deaths in 1998. Most drownings of children ages 0-4 take place in residential pools. In recent years, several highly publicized drownings of young children and near-drownings with tragic consequences have taken place in apartment complex swimming pools, which are public pools under Florida law.

III. Effect of Proposed Changes:

This bill requires public swimming pools to be equipped with:

- A permanent barrier that completely encloses the pool;
- Self-closing pedestrian gates that open outward and are equipped with a releasing mechanism on the pool side of the gate and placed so that a child 6 years old or younger cannot reach it; and
- Gates other than pedestrian gates that are equipped with lockable hardware or padlocks that must remain locked when not being used.

The bill defines barrier as a fence, wall, wall of a building, or any combination thereof, which completely surrounds the pool and obstructs access to the pool, especially access from the building or from the property outside the barrier.

The bill requires the county health department to inspect the barriers and other equipment required by the bill during each routine inspection and requires an inspector to immediately close a pool that does not meet the requirements of this section. The owner or operator of a public pool that is closed by an inspector for failure to have and maintain the equipment required by this bill must correct the deficiencies or be subject to an administrative fine not to exceed \$1,500.

The safety requirements in the bill apply to all public pools operated or constructed on or after July 1, 2003, except that pools in operation on that date must be brought into compliance by October 1, 2003.

The bill amends s. 514.031, F.S., to authorize the use of a portable pool used for scuba diving instruction as a public pool. DOH may issue a permit to the owner or operator of such a portable pool if the pool otherwise meets the health, safety, and welfare requirements of the rules for public pools.

The bill takes effect July 1, 2003.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Municipalities and counties that own and or operate public swimming pools will incur the cost of complying with the requirements of the bill. Without information on the cost, it is not possible to know whether the requirements meet the threshold for an impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Art. I, s. 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

Under s. 514.033, F.S., the fee schedule for modification of original construction of a public swimming pool is not less than \$100 and not more than \$150. An owner or operator of a public swimming pool that had to modify original construction to meet the requirements of this bill would incur that fee.

B. Private Sector Impact:

Owners and operators of public pools that do not already comply with the requirements of the bill will incur costs to comply with the new requirements.

C. Government Sector Impact:

DOH would incur the costs of reviewing and approving modifications to public swimming pools to meet the requirements of the law. County health department inspectors would incur the cost of enforcing the new requirements including legal costs associated with enforcement.

VI. Technical Deficiencies:

None.

VII. Related Issues:

A portable pool used for scuba diving instruction likely would be moved from one location to another. The bill does not specify how DOH would determine the safety of the portable public pool when the pool was moved to a new location.

VIII. Amendments:

None.